

# New Jersey Constitution

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Court, and appoint their judges to the Superior Court)

**Paragraphs 1, 2, 4, 5, 7; Article XI, Section VI, Paragraph 1**

ACR38

Bate, Martin, Flynn

Pre-filed

**Assembly:** Judiciary, Law, Public Safety and Defense

—

Yes

**ASSEMBLY:** 5/4/1978

6/1/1978

7/29/1978

11/7/1978

12/7/1978

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (Introduced bill enacted) Yes

**SPONSOR'S STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

Yes

974.90 Public hearing before Assembly Judiciary, Law, Public Safety and Defense Committee on Assembly  
C866 Concurrent Resolution no. 38 : (proposed constitutional amendments to merge the Superior Court and the  
1978c county courts) : held March 29, 1978, Woodrow Wilson Junior High School ... Clifton, New Jersey.

**NEWSPAPER ARTICLES:**

Yes

KA

# ASSEMBLY CONCURRENT RESOLUTION No. 38

## STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Assemblymen BATE and MARTIN

A CONCURRENT RESOLUTION proposing to amend Article VI, Sections I, III, V, and VI, and Article XI, and to repeal Article VI, Section IV, of the Constitution of the State of New Jersey.

1 BE IT RESOLVED *by the General Assembly of the State of New*  
2 *Jersey (the Senate concurring):*

1 1. The following proposed amendment to the Constitution of  
2 the State of New Jersey is hereby agreed to:

### PROPOSED AMENDMENT

3 a. Article VI, Section I, paragraph 1, be amended to read as  
4 follows:

5 1. The judicial power shall be vested in a Supreme Court, a  
6 Superior Court, **County Courts** and inferior courts of limited  
7 jurisdiction. The inferior courts and their jurisdiction may from  
8 time to time be established, altered or abolished by law.

9 b. Article VI, Section III, paragraphs 1 and 3, be amended to  
10 read as follows:

11 1. The Superior Court shall consist of such number of judges as  
12 may be authorized by law, **but not less than 24,** each of whom  
13 shall exercise the powers of the court subject to rules of the  
14 Supreme Court. *The Superior Court shall at all times at least two*  
15 *judges resident in each of the counties of this State, who are resi-*  
16 *dent therein at the time of appointment.*

17 3. The Superior Court shall be divided into an Appellate Divi-  
18 sion, a Law Division, and a Chancery Division. Each division shall  
19 have such parts, consist of such number of judges, and hear such  
20 causes, as may be provided by rules of the Supreme Court. *At least*  
21 *one judge of the Superior Court shall at all times be assigned to*  
22 *sit in each of the counties of the State, who at the time of his*  
23 *appointment was a resident of the county.*

24 c. Article VI, Section IV, be repealed.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.

25 d. Article VI, Section V, paragraphs 1 and 2 amended to read  
26 as follows:

27 1. Appeals may be taken to the Supreme Court:

28 (a) In causes determined by the appellate division of the  
29 Superior Court involving a question arising under the Constitution  
30 of the United States or this State;

31 (b) In causes where there is a dissent in the Appellate Division  
32 of the Superior Court;

33 (c) In capital causes;

34 (d) On certification by the Supreme Court to the Superior Court  
35 and, where provided by rules of the Supreme Court, to the [County  
36 Courts and the] inferior courts; and

37 (e) In such causes as may be provided by law.

38 2. Appeals may be taken to the appellate division of the  
39 Superior Court from the law and chancery divisions of the  
40 Superior Court[, the County Courts] and in such other causes as  
41 may be provided by law.

42 e. Article VI, Section VI, paragraphs 1, 2, 4, 5 and 7 be amended  
43 to read as follows:

44 1. The Governor shall nominate and appoint, with the advice  
45 and consent of the Senate, the Chief Justice and associate justices  
46 of the supreme court, the judges of the superior court, [the  
47 judges of the county courts] and the judges of the inferior courts  
48 with jurisdiction extending to more than one municipality. No  
49 nomination to such an office shall be sent to the Senate for confirma-  
50 tion until after 7 days' public notice by the Governor.

51 2. The justices of the supreme court[, ] and the judges of the  
52 superior court [and the judges of the county courts] shall each  
53 prior to his appointment have been admitted to the practice of law  
54 in this State for at least 10 years.

55 4. The justices of the supreme court[, ] and the judges of the  
56 superior court [and the judges of the county courts] shall be  
57 subject to impeachment, and any judicial officer impeached shall not  
58 exercise his office until acquitted. The judges of the superior court  
59 [and the judges of the county courts] shall also be subject to  
60 removal from office by the Supreme Court for such causes and in  
61 such manner as shall be provided by law.

62 5. Whenever the Supreme Court shall certify to the Governor  
63 that it appears that any justice of the supreme court[, ] or judge  
64 of the superior court [or judge of the county court] is so in-  
65 capacitated as substantially to prevent him from performing his  
66 judicial duties, the Governor shall appoint a commission of three  
67 persons to inquire into the circumstances; and, on their recommen-

68 dation, the Governor may retire the justice or judge from office, on  
69 pension as may be provided by law.

70 7. The justices of the supreme court~~[,]~~ and the judges of the  
71 superior court ~~[and the judges of the county courts]~~ shall hold  
72 no other office or position, of profit, under this State or the United  
73 States. Any such justice or judge who shall become a candidate for  
74 an elective public office shall thereby forfeit his judicial office.

75 f. Article XI be amended by adding thereto Section VI as  
76 follows:

#### SECTION VI

77 When this amendment to the Constitution providing for the  
78 abolition of the County Courts takes effect:

79 (a) All the jurisdiction, functions, powers and duties of the  
80 County Court of each county, the judicial officers, clerks, employees  
81 thereof, and the causes pending therein, and their files, shall be  
82 transferred to the Superior Court. Until otherwise provided by  
83 law, the judicial officers, surrogates and clerks of the County Courts  
84 and the employees of said officers, clerks, surrogates and courts,  
85 shall continue in the exercise of their duties as if this amendment  
86 had not been adopted. For the purposes of this paragraph, a cause  
87 shall be deemed to be pending notwithstanding that an adjudication  
88 has been entered therein, provided the time limited for appeal has  
89 not expired or the adjudication reserves any party the right to  
90 apply for further relief.

91 (b) All the functions, powers and duties conferred by the statute,  
92 rules or otherwise, upon the judges of the County Courts, shall be  
93 transferred to and may be exercised by judges of the Superior  
94 Court until otherwise provided by law or rules of the Supreme  
95 Court.

96 (c) Until otherwise provided by law, all county clerks shall  
97 become clerks of the Law Division of the Superior Court and all  
98 surrogates shall become clerks of the Chancery Division (Probate  
99 Part) of the Superior Court for their respective counties and shall  
100 perform such duties and maintain such files and records on behalf  
101 of the Clerk of the Superior Court as may be required by law and  
102 rule of court; and all fees payable to the county clerks and  
103 surrogates prior to the effective date of this amendment shall con-  
104 tinue to be so payable and be received for the use of their respective  
105 counties until otherwise provided by law.

106 (d) The judges of the County Courts in office on the effective  
107 date of this amendment shall be judges of the Superior Court. All  
108 such judges who had acquired tenure on a County Court shall hold

109 office as a judge of the Superior Court during good behavior, with  
 110 all rights, and subject to all the provisions of the Constitution  
 111 affecting a judge of the Superior Court, as though they were  
 112 initially appointed to the Superior Court. All other judges of the  
 113 County Courts shall hold office as judges of the Superior Court,  
 114 each for the period of his term which remains unexpired on the  
 115 effective date of this amendment; and if reappointed, he shall hold  
 116 office during good behavior, with all the rights and subject to all  
 117 the provisions of the Constitution affecting a judge of the Superior  
 118 Court as though he were initially appointed to the Superior Court.

1     2. When this proposed amendment to the Constitution is finally  
 2     agreed to, pursuant to Article IX, paragraph 1 of the Constitution,  
 3     it shall be submitted to the people at the next general election  
 4     occurring more than 3 months after such final agreement and be  
 5     published at least once in at least one newspaper of each county  
 6     designated by the President of the Senate and the Speaker of the  
 7     General Assembly and the Secretary of State, not less than 3  
 8     months prior to said general election.

1     3. This proposed amendment to the Constitution shall be sub-  
 2     mitted to the people at said election in the following manner and  
 3     form:

4     There shall be printed on each official ballot to be used at such  
 5     general election, the following:

6     a. In every municipality in which voting machines are not used,  
 7     the following legend shall immediately precede the question:

8     If you favor the proposition printed below make a cross (×),  
 9     plus (+) or check (✓) in the square opposite the word "Yes." If  
 10    you are opposed thereto make a cross (×), plus (+) or check (✓)  
 11    in the square opposite the word "No."

12    b. In every municipality the following question:

|  |      |                                                                                                                                                                                                                                                                                                    |
|--|------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | Yes. | INCORPORATION OF THE COUNTY COURTS<br>INTO THE SUPERIOR COURT                                                                                                                                                                                                                                      |
|  | No.  | Shall the amendment to Article VI and<br>Article XI of the Constitution to incor-<br>porate the existing County Courts into<br>the Superior Court, transfer their juris-<br>diction and pending causes to the Su-<br>perior Court, and appoint their judges to<br>the superior court, be approved? |

#### STATEMENT

This resolution proposes to amend the Constitution by incorpo-  
 rating the County Courts into the Superior Court.

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND  
DEFENSE COMMITTEE

STATEMENT TO  
ASSEMBLY CONCURRENT RESOLUTION No. 38  
with committee amendments

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STATE OF NEW JERSEY

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DATED: FEBRUARY 23, 1978

The purpose of this resolution is to propose a constitutional amendment incorporating the County Courts into the Superior Court.

The committee amendments provide that at least two judges of the Superior Court shall be appointed from each county, and that they shall sit in the county in which they reside. The number of judges required to reside in the county wherein they sit must be at least equal in number to the number of judges of the county court sitting in each of the counties at the adoption of this amendment. The committee's intent was to preserve the geographical balance now present in the County Court system.

ASSEMBLY COMMITTEE AMENDMENTS TO  
**ASSEMBLY CONCURRENT RESOLUTION No. 38**

—♦—  
**STATE OF NEW JERSEY**  
—♦—

ADOPTED FEBRUARY 23, 1978

Amend page 1, section 1, line 6, omit "inferior", insert "other".

Amend page 1, section 1, line 7, omit "inferior", insert "other".

Amend page 1, section 1, line 14, after "times", insert "consist of".

Amend page 1, section 1, line 15, after "judges", omit "resident", and insert "who shall be assigned to sit"; after "State", insert "and".

Amend page 1, section 1, line 16, after "appointment", insert "and reappointment".

Amend page 1, section 1, line 21, omit "one judge", insert "two judges".

Amend page 1, section 1, line 22, omit "his", insert "their".

Amend page 1, section 1, line 23, after "appointment", omit remainder of line, insert "and reappointment were residents of that county, provided, however, that the number of judges required to reside in the county wherein they sit shall be at least equal in number to the number of judges of the county court sitting in each of the counties at the adoption of this amendment".

[OFFICIAL COPY REPRINT]

## ASSEMBLY CONCURRENT RESOLUTION No. 38

# STATE OF NEW JERSEY

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A CONCURRENT RESOLUTION proposing to amend Article VI, Sections I, III, V, and VI, and Article XI, and to repeal Article VI, Section IV, of the Constitution of the State of New Jersey.

1 BE IT RESOLVED *by the General Assembly of the State of New*  
2 *Jersey (the Senate concurring):*

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2 the State of New Jersey is hereby agreed to:

### PROPOSED AMENDMENT

3 a. Article VI, Section I, paragraph 1, be amended to read as  
4 follows:

5 1. The judicial power shall be vested in a Supreme Court, a  
6 Superior Court, **[County Courts]** and **\*[inferior]\*** *\*other\** courts  
7 of limited jurisdiction. The **\*[inferior]\*** *\*other\** courts and their  
8 jurisdiction may from time to time be established, altered or abol-  
9 ished by law.

10 b. Article VI, Section III, paragraphs 1 and 3, be amended to  
11 read as follows:

12 1. The Superior Court shall consist of such number of judges as  
13 may be authorized by law, **[but not less than 24,]** each of whom  
14 shall exercise the powers of the court subject to rules of the  
15 Supreme Court. *The Superior Court shall at all times \*consist of\**  
16 *at least two judges* **\*[resident]\*** *\*who shall be assigned to sit\* in*  
17 *each of the counties of this State, \*and\* who are resident therein*  
18 *at the time of appointment \*and reappointment\*.*

19 3. The Superior Court shall be divided into an Appellate Divi-  
20 sion, a Law Division, and a Chancery Division. Each division shall  
21 have such parts, consist of such number of judges, and hear such  
22 causes, as may be provided by rules of the Supreme Court. *At least*  
23 *\*[one judge]\** *\*two judges\** *of the Superior Court shall at all times*  
24 *be assigned to sit in each of the counties of the State, who at the*

**EXPLANATION**—Matter enclosed in bold-faced brackets **[thus]** in the above bill  
is not enacted and is intended to be omitted in the law.

25 time of \***[his]**\* *\*their\** appointment \***[was a resident of the**  
 26 **county]**\* *\*and reappointment were residents of that county, pro-*  
 27 *vided, however, that the number of judges required to reside in the*  
 28 *county wherein they sit shall be at least equal in number to the*  
 29 *number of judges of the county court sitting in each of the counties*  
 30 *at the adoption of this amendment\*.*

31 c. Article VI, Section IV, be repealed.

32 d. Article VI, Section V, paragraphs 1 and 2 amended to read  
 33 as follows:

34 1. Appeals may be taken to the Supreme Court:

35 (a) In causes determined by the appellate division of the  
 36 Superior Court involving a question arising under the Constitution  
 37 of the United States or this State;

38 (b) In causes where there is a dissent in the Appellate Division  
 39 of the Superior Court;

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41 (d) On certification by the Supreme Court to the Superior Court  
 42 and, where provided by rules of the Supreme Court, to the **[County**  
 43 **Courts and the]** inferior courts; and

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 46 Superior Court from the law and chancery divisions of the  
 47 Superior Court**[, the County Courts]** and in such other causes as  
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 54 **judges of the county courts]** and the judges of the inferior courts  
 55 with jurisdiction extending to more than one municipality. No  
 56 nomination to such an office shall be sent to the Senate for confirma-  
 57 tion until after 7 days' public notice by the Governor.

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 68 such manner as shall be provided by law.

69 5. Whenever the Supreme Court shall certify to the Governor  
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 73 judicial duties, the Governor shall appoint a commission of three  
 74 persons to inquire into the circumstances; and, on their recommen-  
 75 dation, the Governor may retire the justice or judge from office, on  
 76 pension as may be provided by law.

77 7. The justices of the supreme court[,] and the judges of the  
 78 superior court [and the judges of the county courts] shall hold  
 79 no other office or position, of profit, under this State or the United  
 80 States. Any such justice or judge who shall become a candidate for  
 81 an elective public office shall thereby forfeit his judicial office.

82 f. Article XI be amended by adding thereto Section VI as  
 83 follows:

#### SECTION VI

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 85 abolition of the County Courts takes effect:

86 (a) All the jurisdiction, functions, powers and duties of the  
 87 County Court of each county, the judicial officers, clerks, employees  
 88 thereof, and the causes pending therein, and their files, shall be  
 89 transferred to the Superior Court. Until otherwise provided by  
 90 law, the judicial officers, surrogates and clerks of the County Courts  
 91 and the employees of said officers, clerks, surrogates and courts,  
 92 shall continue in the exercise of their duties as if this amendment  
 93 had not been adopted. For the purposes of this paragraph, a cause  
 94 shall be deemed to be pending notwithstanding that an adjudication  
 95 has been entered therein, provided the time limited for appeal has  
 96 not expired or the adjudication reserves any party the right to  
 97 apply for further relief.

98 (b) All the functions, powers and duties conferred by the statute,  
 99 rules or otherwise, upon the judges of the County Courts, shall be  
 100 transferred to and may be exercised by judges of the Superior  
 101 Court until otherwise provided by law or rules of the Supreme  
 102 Court.

103 (c) Until otherwise provided by law, all county clerks shall  
 104 become clerks of the Law Division of the Superior Court and all  
 105 surrogates shall become clerks of the Chancery Division (Probate  
 106 Part) of the Superior Court for their respective counties and shall  
 107 perform such duties and maintain such files and records on behalf  
 108 of the Clerk of the Superior Court as may be required by law and  
 109 rule of court; and all fees payable to the county clerks and  
 110 surrogates prior to the effective date of this amendment shall con-

111 tinue to be so payable and be received for the use of their respective  
112 counties until otherwise provided by law.

113 (d) The judges of the County Courts in office on the effective  
114 date of this amendment shall be judges of the Superior Court. All  
115 such judges who had acquired tenure on a County Court shall hold  
116 office as a judge of the Superior Court during good behavior, with  
117 all rights, and subject to all the provisions of the Constitution  
118 affecting a judge of the Superior Court, as though they were  
119 initially appointed to the Superior Court. All other judges of the  
120 County Courts shall hold office as judges of the Superior Court,  
121 each for the period of his term which remains unexpired on the  
122 effective date of this amendment; and if reappointed, he shall hold  
123 office during good behavior, with all the rights and subject to all  
124 the provisions of the Constitution affecting a judge of the Superior  
125 Court as though he were initially appointed to the Superior Court.

1 2. When this proposed amendment to the Constitution is finally  
2 agreed to, pursuant to Article IX, paragraph 1 of the Constitution,  
3 it shall be submitted to the people at the next general election  
4 occurring more than 3 months after such final agreement and be  
5 published at least once in at least one newspaper of each county  
6 designated by the President of the Senate and the Speaker of the  
7 General Assembly and the Secretary of State, not less than 3  
8 months prior to said general election.

1 3. This proposed amendment to the Constitution shall be sub-  
2 mitted to the people at said election in the following manner and  
3 form:

4 There shall be printed on each official ballot to be used at such  
5 general election, the following:

6 a. In every municipality in which voting machines are not used,  
7 the following legend shall immediately precede the question:

8 If you favor the proposition printed below make a cross (X),  
9 plus (+) or check (✓) in the square opposite the word "Yes." If  
10 you are opposed thereto make a cross (X), plus (+) or check (✓)  
11 in the square opposite the word "No."

12 b. In every municipality the following question:

|  |      |                                                                                                                                                                                                                                                                                                                                                                                       |
|--|------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | Yes. | <p>INCORPORATION OF THE COUNTY COURTS<br/>INTO THE SUPERIOR COURT</p> <p>Shall the amendment to Article VI and<br/>Article XI of the Constitution to incor-<br/>porate the existing County Courts into<br/>the Superior Court, transfer their juris-<br/>diction and pending causes to the Su-<br/>perior Court, and appoint their judges to<br/>the superior court, be approved?</p> |
|  | No.  |                                                                                                                                                                                                                                                                                                                                                                                       |